



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R05-OAR-2011-0328; FRL-9811-7]**

**Approval and Promulgation of Air Quality Implementation Plans;  
Minnesota; Flint Hills Resources Pine Bend**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is approving Minnesota's August 29, 2011, request to revise its sulfur dioxide (SO<sub>2</sub>) state implementation plan (SIP) for Flint Hills Resources Pine Bend, LLC (FHR Pine Bend), in Dakota County. The facility is shutting down an incinerator and rerouting process gases to address a safety issue. The revised SIP also includes other emission reductions. This revision will result in a decrease in SO<sub>2</sub> emissions. EPA published a direct final approval of this SIP revision request on January 31, 2013, but received an adverse comment and therefore withdrew the approval. EPA is hereby addressing the comment and taking final action on Minnesota's August 29, 2011, submittal.

**DATES:** This rule is effective [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** EPA has established a docket for this action under Docket Identification EPA-R05-OAR-2011-0328. All documents in

these dockets are listed on the [www.regulations.gov](http://www.regulations.gov) web site. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 AM to 4:30 PM, Monday through Friday, excluding Federal holidays. We recommend that you telephone Mary Portanova at (312) 353-5954 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Mary Portanova, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-5954, [portanova.mary@epa.gov](mailto:portanova.mary@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

I. What is the Background for this Action?

II. What is EPA's Response to Comments?

III. Final Action

IV. Statutory and Executive Order Reviews

**I. What is the Background for this Action?**

On August 29, 2011, Minnesota submitted a request to EPA to revise its SO<sub>2</sub> SIP for the FHR Pine Bend oil refinery in Rosemount, Dakota County. FHR Pine Bend is making modifications to its facility to address plant safety and improve energy efficiency. The facility will remove its Merox process incinerator, reroute process gases to an existing heater, take additional restrictions on steam-air decoking activities for certain boilers, revise the SO<sub>2</sub> emission limits for its fluid catalytic cracking unit, and make plans to add a boiler. See the January 31, 2013, direct final approval (78 FR 6733) for additional information. Overall, the August 29, 2011, SIP revision provides for a reduction in SO<sub>2</sub> emissions of over 3100 tons per year. EPA's January 31, 2013, direct final action approving Minnesota's SIP revision request received one adverse public comment, so EPA withdrew the final action on March 26, 2013 (78 FR 18241).

**II. What is EPA's Response to Comments?**

EPA received one comment during the public comment period for the January 31, 2013, rulemaking. A summary of the comment and EPA's response are provided below.

**Comment:**

The commenter objects to the FHR Pine Bend SIP amendment because of concerns that SO<sub>2</sub> emissions are grossly underestimated when only fuel gas hydrogen sulfide (H<sub>2</sub>S) is used to determine compliance with SO<sub>2</sub> emission limits, because there are other sulfur compounds in fuel gas that also contribute to SO<sub>2</sub> emissions. The commenter recommends that SO<sub>2</sub> continuous emissions monitors (CEMs) be installed on all fuel gas sources at FHR Pine Bend, including the new boiler.

**Response:**

The gas combustion units at FHR Pine Bend are fueled by natural gas and/or refinery fuel gas. Natural gas contains very little sulfur. Refinery fuel gas may contain sulfur compounds. At FHR Pine Bend, refinery fuel gas is generated by the facility's processes and collected into two fuel gas mix drums, designated 41V-33 and 45V-39. The gases are then distributed from these mix drums to combustion units at the facility, such as boilers and heaters. FHR Pine Bend operates H<sub>2</sub>S CEMs on the mix drums to satisfy the requirements of the New Source

Performance Standards (40 CFR 60, subparts J and Ja). The 41V-33 mix drum receives gases which contain  $\text{H}_2\text{S}$ , but do not contain a large concentration of other sulfur compounds. FHR Pine Bend operates a CEM which measures total sulfur in the 41V-33 mix drum gases. The 45V-39 mix drum receives gases from different processes, and these gases may contain sulfur compounds other than  $\text{H}_2\text{S}$ . FHR Pine Bend uses stack  $\text{SO}_2$  CEMs and fuel flow meters at two representative heaters fired with gases from the 45V-39 mix drum to determine the sulfur content of the fuel gases for  $\text{SO}_2$  compliance calculations. The  $\text{SO}_2$  emissions from FHR Pine Bend's gas-fired combustion sources are calculated using the CEM data for the mix drum gas stream which supplies them. For the Merox off-gas incinerator, FHR Pine Bend uses a CEM that directly measures the incinerator's  $\text{SO}_2$  emissions. This  $\text{SO}_2$  CEM will be moved to the 31H-2 process heater when the Merox off-gas stream is directed to that heater. Data from the CEM will be used to determine compliance with the  $\text{SO}_2$  SIP emission limits at the 31H-2 heater. In a letter to EPA dated March 15, 2013, FHR Pine Bend explained its continuous emissions monitoring methods for sulfur and confirmed that it is already required to continuously measure the sulfur in the refinery fuel gas it combusts, and that its  $\text{SO}_2$  emissions calculations account for the different sulfur compounds present in the gas.

Therefore, EPA is satisfied that FHR Pine Bend is correctly measuring its sulfur emissions and is already performing the continuous SO<sub>2</sub> monitoring that the commenter expects.

### **III. Final Action**

EPA is approving Minnesota's August 29, 2011, request to revise its SO<sub>2</sub> SIP for FHR Pine Bend, in Dakota County.

### **IV. Statutory and Executive Order Reviews**

Under the Clean Air Act (CAA), the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501

*et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR

7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [INSERT DATE 60 DAYS

FROM DATE OF PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b) (2) .)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Sulfur oxides.

Dated: April 29, 2013.

Susan Hedman,  
Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

**PART 52-- APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

2. In § 52.1220, the table in paragraph (d) is amended by revising the entry for "Flint Hills Resources, L.P. (formerly Koch Petroleum)" to read as follows:

**§ 52.1220 Identification of plan.**

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(d) \* \* \*

**EPA-APPROVED MINNESOTA SOURCE-SPECIFIC PERMITS**

Name of Source	Permit Number	State effective date	EPA approval date	Comments
* * *	* * *	* *		
Flint Hills Resources Pine Bend, LLC		08/29/11	[INSERT THE DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]	Amendment Nine to Findings and Order
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[FR Doc. 2013-11477 Filed 05/14/2013 at 8:45 am; Publication  
Date: 05/15/2013]